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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,126	07/02/2003	Leslie A. Geddes	P00726-US-01 (00872.0010)	3893
22446	7590	12/21/2005	EXAMINER	
ICE MILLER ONE AMERICAN SQUARE BOX 82001 INDIANAPOLIS, IN 46282-0200			LAYNO, CARL HERNANDZ	
			ART UNIT	PAPER NUMBER
			3766	

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/612,126

Applicant(s)

GEDDES ET AL.

Examiner

Carl H. Layno

12/19/05

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-25 is/are allowed.
- 6) ☒ Claim(s) 1,2,11 and 26 is/are rejected.
- 7) ☒ Claim(s) 3-10 and 12-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/2/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgement is made of applicant's claim for priority filing based upon U.S. Provisional Application 60/393,738, filed July 3, 2002.

### ***Information Disclosure Statement***

2. Acknowledgment is made of applicant's Information Disclosure Statement (PTO-1449), which was received by the Office on July 2, 2003.

### ***Drawings***

3. Applicant's formal drawings were received by the Office on July 2, 2003 and have been approved by the Examiner.

### ***Specification***

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

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Specifically, the words “The present invention” in lines 1, 2, and 6 of the Abstract should be avoided.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, 11, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Prutchi (US 6,152,882).

The Prutchi (US 6,152,882) patent describes an implantable apparatus **350,380** (Figs.22B and 22C, respectively) used primarily for monitoring a patient’s monophasic action potentials (MAPs), but also having circuits capable of generating pacing pulses **330** and monitoring intracardiac electrograms (IEGMs) (elements **358,360** -- col.29, lines 63-65). The device of Prutchi may comprise N number of leads **386, 384, 382** (Fig.22C – col.31, lines 36-39) each of which may take the form of a fluid filled catheter (Fig.33) equipped with a probe/sensing electrode **608** and a reference electrode **610** (col.43, lines 1-5). Since each lead is equipped with a reference electrode **610**, any one of them may perform the function of applicant’s claimed “reference lead”, while the other two would perform the function of the “test leads”. The device described by this patent incorporates the capability of being used in animals (col.2, lines 65-66).

In regard to claim 11, the saline solution **736** (Fig.33) used by the catheter/leads **382, 384, and 386** is composed of KCl (potassium chloride). Col.43, lines 26-28 and 46-53.

In regard to claim 26, applicant's attention is directed to Figs.22C and 33 (col.42, lines 30-67).

***Allowable Subject Matter***

7. Claims 3-10, and 12-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 19-25 are allowed.

9. The following is a statement of reasons for the indication of allowable subject matter:

Independent claim 19 recites a method for obtaining an electrocardiogram of an animal including the unique step of inserting a first and second catheter into the animal's veins such that both catheters are located on an axis running diagonally across the heart from one of the heart's atriums to a position just below the opposite ventricle of the heart. The Examiner was unable to find any reference(s) in the prior art meeting this step; consequently, the Examiner deems independent claim 19 and depending claims 20-25 to be allowable.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Franz et al (US 4,79,510) patent is cited for its pertinent disclosure of an endocardial lead (Figs.1-6) including a pair of electrical leads **68,70**, utilizing a foam rubber layer **36** (Fig.2) soaked in saline solution (col.8, lines 25-29) to assist in electrical conduction of cardiac signals. Unlike applicant's device, however, that of Franz et al fails to disclose an embodiment having two test leads/catheters and a reference lead.

Likewise, the Alt (DE 43 18 963 C1) German patent is cited for its use of an electrolytic fluid filled catheter used in ECG detection (Fig.1). Again, unlike applicant's device, that of Alt fails to describe the use of two test/monitoring leads and a reference lead in the manner claimed by the applicant.

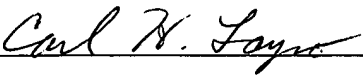
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl H. Layno whose telephone number is (571) 272-4949. The examiner can normally be reached on 9/4/5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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CARL LAYNO  
PRIMARY EXAMINER

CHL  
12/19/2005